



Washington
Department of
FISH and
WILDLIFE

HYDRAULIC PROJECT APPROVAL

RCW 77.55.100 - Appeal pursuant to Chapter 34.05 RCW

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

Issue Date: December 12, 2005
Project Expiration Date: December 31, 2007

Control Number: 103326-1
FPA/Public Notice #: N/A

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Ash Grove Cement Company ATTENTION: Craig Puljan 3801 E Marginal Way South Seattle, WA 98134-1147 206-623-5596() Fax: 206-623-5355	Anchor Environmental, L.L.C. ATTENTION: Sasha Visconty 1423 Third Ave., Suite 300 Seattle, WA 98101 206-287-9130 Fax: 206-287-9131

Project Name: Dolphin replacement
Project Description: Replace a 35-pile creosote treated timber dolphin with a 3-pile steel dolphin.

PROVISIONS

1. TIMING LIMITATIONS: The project may begin immediately and shall be completed by December 31, 2007.
2. Work below the ordinary high water line shall not occur from February 15 through July 31 of any year for the protection of migrating juvenile salmonids.
3. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled Ash Grove Cement-Proposed New Dolphin and April 2005, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.
4. This approval is for the repair/replacement of the existing structure only and shall not result in the expansion of the structure.
5. During creosote-piling removal, containment booms and absorbent sausage booms (or other oil absorbent fabric) shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials released into marine waters as a result of construction activities. All accumulated debris shall be collected and disposed upland at an approved disposal site.
6. Piles shall be removed and driven by means of a vibratory hammer. The use of an impact hammer is not authorized under this HPA.
7. The existing pilings shall be removed and disposed of upland such that they do not enter waters of the state. In the event that the piles cannot be completely removed then the remainder of the pile shall be removed with a cable or cut off 2 ft below the mudline.
8. After the piles are removed, the holes shall be backfilled with clean sand.
9. As specified in the application, the new dolphin shall be steel.





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11. All piling, lumber, and other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed.
12. Eelgrass and kelp shall not be adversely impacted due to any project activities (e.g., barge shall not ground, equipment shall not operate, and other project activities shall not occur in eelgrass and kelp).
13. Project activities shall be conducted to minimize siltation of the beach area and bed.
14. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Department of Ecology at 1-800-258-5990, and to the Area Habitat Biologist listed below.
15. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.
16. An emergency spill containment kit must be located on site along with a pollution prevention plan detailing planned fueling, materials storage, and equipment storage. Waste storage areas must be prepared to address prevention and cleanup of accidental spills.
17. No petroleum products or other deleterious materials shall enter surface waters.
18. Wood treated with preservatives, trash, waste, or other deleterious materials shall not be burned below the ordinary high water line. Limited burning of untreated wood or similar material may be allowed at or above the mean higher high water line.
19. Project activities shall not degrade water quality to the detriment of fish life.

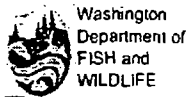
PROJECT LOCATIONS

Location #1 3801 E Marginal

WORK START: December 12, 2005				WORK END: December 31, 2007		
WRIA:		Waterbody:			Tributary to:	
08.9081		Wria 08 Marine			Puget Sound	
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
NE 1/4	18	24 N	04 E	N 47.578	W 122.341	King

Location #1 Driving Directions

Duwamish Waterway east bank, 3801 E Marginal Way S



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This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass. It is the responsibility of the permit holder to secure any landowner permissions or use authorizations as needed for the project.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The person(s) to whom this Hydraulic Project Approval is issued has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All Hydraulic Project Approvals issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the person(s) to whom this Hydraulic Project Approval is issued: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

CHAPTER 77.55 RCW RE-CODIFIED:

Chapter 77.55 RCW was re-organized and re-codified by the 2005 Legislature in Second Substitute House Bill 1346, signed into law by Governor Gregoire as Chapter 146, Laws of 2005. Chapter 146, Laws of 2005 became effective July 24, 2005. The Code Reviser's Office is in the process of completing the re-codification and conversion of the bill into RCW. The RCW referenced at the top of this HPA has been superseded by Chapter 146, Laws of 2005. Until the re-codification process has been completed, the following reflects the section(s) of Chapter 146, Laws of 2005 under which sections of former Chapter 77.55 RCW can now be found:

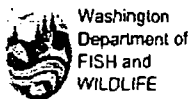
FORMER TITLE 77.55 RCW	CHAPTER 146 LAWS of 2005
RCW 77.55.010	Sec. 406
RCW 77.55.100	Sec. 101, 201, 301, 507, 508, 601, 605
RCW 77.55.110	Sec. 101, 201
RCW 77.55.150	Sec. 101, 303, 401
RCW 77.55.200	Sec. 501
RCW 77.55.210	Sec. 504
RCW 77.55.220	Sec. 101, 502
RCW 77.55.270	Sec. 101, 402
RCW 77.55.280	Sec. 403
RCW 77.55.290	Sec. 505

APPEALS INFORMATION

IF YOU WISH TO APPEAL THE ISSUANCE OR DENIAL OF, OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290: A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

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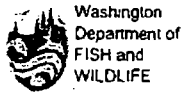
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Project Name: Dolphin replacement

Project Description: Replace a 35-pile creosote treated timber dolphin with a 3-pile steel dolphin.

PROVISIONS

1. TIMING LIMITATIONS: The project may begin immediately and shall be completed by December 31, 2007.
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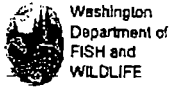
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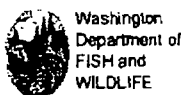
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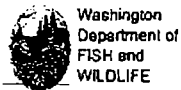
PROJECT LOCATIONS

Location #1 3801 E Marginal

WORK START: December 12, 2005				WORK END: December 31, 2007		
WRIA:		Waterbody:		Tributary to:		
08.9081		Wria 08 Marine		Puget Sound		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
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RCW 77.55.100	Sec. 101, 201, 301, 507, 508, 601, 605
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Project Approval; or

(B) An order imposing civil penalties. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a Hydraulic Project Approval or receipt of an order imposing civil penalties. If agreed to by the aggrieved party, and the aggrieved party is the Hydraulic Project Approval applicant, resolution of the concerns will be facilitated through discussions with the Area Habitat Biologist and his/her supervisor. If resolution is not reached, or the aggrieved party is not the Hydraulic Project Approval applicant, the Habitat Environmental Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or his/her designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100 OR 77.55.140: A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

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(B) An order imposing civil penalties; or

(C) Any other 'agency action' for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, shall be plainly labeled as 'REQUEST FOR FORMAL APPEAL' and shall be RECEIVED DURING OFFICE HOURS by the Department at 600 Capitol Way North, Olympia, Washington 98501-1091, within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project

Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO CHAPTER 43.21L RCW: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The FORMAL APPEAL shall be in accordance with the provisions of Chapter 43.21L RCW and Chapter 199-08 WAC. The request for FORMAL APPEAL shall be in WRITING to the Environmental and Land Use Hearings Board at Environmental Hearings Office, Environmental and Land Use Hearings Board, 4224 Sixth Avenue SE, Building Two - Rowe Six, P.O. Box 40903, Lacey, Washington 98504; telephone 360/459-6327.

E. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.

ENFORCEMENT: Sergeant Phillips () P3

Laura Praye
Habitat Biologist

425-379-2306

for Director
WDFW

CC:



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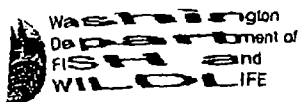
<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Ash Grove Cement Company ATTENTION: Craig Puljan 3801 E Marginal Way South Seattle, WA 98134-1147 206-623-5596() Fax: 206-623-5355	Anchor Environmental, L.L.C. ATTENTION: Sasha Visconty 1423 Third Ave., Suite 300 Seattle, WA 98101 206-287-9130 Fax: 206-287-9131

Project Name: Dolphin replacement

Project Description: Replace a 35-pile creosote treated timber dolphin with a 3-pile steel dolphin.

PROVISIONS

1. **TIMING LIMITATIONS:** The project may begin immediately and shall be completed by December 31, 2007.
2. Work below the ordinary high water line shall not occur from February 15 through July 31 of any year for the protection of migrating juvenile salmonids.
3. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled Ash Grove Cement-Proposed New Dolphin and April 2005, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.
4. This approval is for the repair/replacement of the existing structure only and shall not result in the expansion of the structure.
5. During creosote-piling removal, containment booms and absorbent sausage booms (or other oil absorbent fabric) shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials released into marine waters as a result of construction activities. All accumulated debris shall be collected and disposed upland at an approved disposal site.
6. Piles shall be removed and driven by means of a vibratory hammer. The use of an impact hammer is not authorized under this HPA.
7. The existing pilings shall be removed and disposed of upland such that they do not enter waters of the state. In the event that the piles cannot be completely removed then the remainder of the pile shall be removed with a cable or cut off 2 ft below the mudline.
8. After the piles are removed, the holes shall be backfilled with clean sand.
9. As specified in the application, the new dolphin shall be steel.



HYDRAULIC PROJECT APPROVAL

RCW 77.55.100 - Appeal pursuant to Chapter 34.05 RCW

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

Issue Date: December 12, 2005

Control Number: 103326-1

Expiration Date: December 31, 2007

FPA/Public Notice #: N/A

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Code, specifically RCW 77.55 (formerly RCW 77.57). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass. It is the responsibility of the permit holder to secure any landowner permissions or use authorizations as needed for the project.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The person(s) to whom this Hydraulic Project Approval is issued has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All Hydraulic Project Approvals issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the person(s) to whom this Hydraulic Project Approval is issued: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

CHAPTER 77.55 RCW RE-CODIFIED:

Chapter 77.55 RCW was re-organized and re-codified by the 2005 Legislature in Second Substitute House Bill 1346, signed into law by Governor Gregoire as Chapter 146, Laws of 2005. Chapter 146, Laws of 2005 became effective July 24, 2005. The Code Reviser's Office is in the process of completing the re-codification and conversion of the bill into RCW. The RCW referenced at the top of this HPA has been superseded by Chapter 146, Laws of 2005. Until the re-codification process has been completed, the following reflects the section(s) of Chapter 146, Laws of 2005 under which sections of former Chapter 77.55 RCW can now be found:

FORMER TITLE 77.55 RCW	CHAPTER 146 LAWS of 2005
RCW 77.55.010	Sec. 406
RCW 77.55.100	Sec. 101, 201, 301, 507, 508, 601, 605
RCW 77.55.110	Sec. 101.201
RCW 77.55.150	Sec. 101, 303, 401
RCW 77.55.200	Sec. 501
RCW 77.55.210	Sec. 504
RCW 77.55.220	Sec. 101, 502
RCW 77.55.270	Sec. 101, 402
RCW 77.55.280	Sec. 403
RCW 77.55.290	Sec. 505

APPEALS INFORMATION

IF YOU WISH TO APPEAL THE ISSUANCE OR DENIAL OF, OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290: A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic